

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Notice of Proposed Rulemaking)	
)	CS Docket No. 02-52
Appropriate Regulatory Treatment for)	
Broadband Access to the Internet Over)	
Cable Facilities)	
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COMMENTS OF THE NORTHWEST SUBURBS CABLE COMMUNICATIONS
COMMISSION, A MINNESOTA JOINT POWERS ENTITY CREATED BY
THE CITIES OF BROOKLYN CENTER, BROOKLYN PARK, CRYSTAL,
GOLDEN VALLEY, MAPLE GROVE, NEW HOPE, OSSEO, PLYMOUTH,
AND ROBBINSDALE, MINNESOTA ("NWSCCC")

These comments are filed by the NWSCCC in support of the comments filed by the Alliance of Local Organizations Against Preemption (the "Alliance"). Like the Alliance, the NWSCCC believes that (a) local communities should be able to require cable operators to obtain additional authorizations to use and occupy public rights of way to provide cable services, and to enforce existing authorizations that have been granted for the service; (b) should be able to obtain fair and reasonable compensation for use and occupancy of the public rights of way to provide non-cable services; and (c) should be able to regulate cable companies in their provision of non-cable services, as provided under the Cable Act.

These comments will also provide information regarding the status of cable modem service in our community.

1. Our community and the status of cable modem service.

The NWSCCC is a joint powers entity consisting of nine separate communities, having a total population of approximately 250,000. It is served by AT&T Broadband which has approximately 70,000 subscribers. The cable system serving our community offers subscribers cable and cable modem service through a 750 MhZ hybrid fiber coaxial cable system recently upgraded and rebuilt in accordance with a renewed franchise entered into between the NWSCCC and AT&T Broadband in 1997. Cable modem service is offered in our community.

2. Our franchise and cable modem service.

Our franchise was issued in 1997 and did not directly address cable modem service. However, under our franchise the definition of gross revenues is broad enough to include cable modem service. Pursuant to that provision, we were entitled to receive franchise fees on cable modem service. We received \$217,981 in cable modem franchise fees in 2001. These payments were made in consideration of the grant of the franchise. Our franchise was written to permit the operator to provide both cable services and other services, as long as the operator complied with the franchise terms. From the end of the first quarter 2001 to the end of the first quarter 2002, the franchise fees paid on cable service increased by 220%. In five to ten years, this would mean a loss of approximately \$1.5 million per year.

Neither the franchise requirements or the fees have prevented or delayed the roll-out of cable modem service in our community.

3. How we regulate cable modem service.

We regularly receive complaints from customers regarding the services provided by cable operators. These include complaints about traditional video programming services and about cable modem services. Responding to these complaints requires significant staff time and effort.

There are many unique customer service problems associated with cable modem services. In addition, it is often difficult, if not impossible to separate regulation of cable modem service from the regulation of cable service in many critical respects:

- Cable modem service is marketed jointly with cable service.
- When we get complaints about promotional practices, the complaint may apply to both services.
- A single bill is sent for cable modem and cable services, so billing complaints involve both.
- Customer service calls go to a single number, so telephone answering policies affect both.
- A customer may call a single location to schedule installation of cable service and cable modem service, and customer complaints about installations and missed appointments may relate to both services.

As a result, when one service has problems, the quality of the other service can be affected. Customers are advised on their bill by the cable operator that they can call our office with complaints, and as far as we can tell, at no time does the operator advise the customer that protections accorded with respect to cable service do not apply with respect to cable modem service. In our view, there is a substantial and continuing need to protect consumers of cable modem service, in light of the complaints we receive, and because of its close tie to video services.

Cable modem service is also subject to the following requirements under our franchise:

- The operator is required to provide cable modem service throughout its service area, and is prohibited from redlining.

- The operator is prohibited from discriminating against potential customers.
- The operator is prohibited from demanding exclusive contracts as a condition of providing service to MDUs and others.

4. Our community and broadband deployment.

Our community believes it is very important to encourage broadband deployment, and to encourage development of broadband applications. We also believe that in order to achieve the promise of broadband, broadband has to be available to the entire community, as far as possible. We want to avoid knowledge and opportunity gaps created because some parts of the community have access to broadband information, while others do not.

To that end, our community devotes significant resources to take advantage of the information highway and to extend its benefits to all. The NWSCCC on behalf of its nine member cities receives the 5% franchise fee on all cable services, including cable modem services and devotes the entire sum to offset the cost of administration and enforcement of the franchise and, in addition, through a creation of a separate non-profit corporation, known as the Northwest Suburbs Cable Television Corporation (“NWSCTC”), develops public, educational, and governmental access programs and services. The annual budget for these operations is in excess of \$2 million per year. The NWSCTC has a staff in excess of 20 personal and devotes considerable energy to the creation of local programs and services, including new shows about the nine member cities which are suburban communities to the core Minneapolis/St. Paul area and would not otherwise have available to it significant news or broadcast television services. In addition, because the cable system has cable modem services, the NWSCTC is utilizing the funds that it receives from cable services as well as cable modem services to create webcasting or streaming video on its internet site to enable the residents of the nine members cities to

receive through the internet local interest programming and services, including the governmental access programming and new shows and City Council meetings relating to its nine member cities.

The funds that we obtain from cable modem franchise fees are extremely important to help offset the costs of these and other activities. If we lose these funds, it will be more difficult to protect consumers, offer the extensive local community video services, and to promote the deployment of broadband throughout the community.

Respectfully submitted,

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